

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2016 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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AMRUTLAL H MEHTA & ORS.

Versus

STATE OF GUJARAT & ORS.

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Appearance:

MS MAMTA VYAS for Petitioners

MR ND NANAVALI for Respondent No. 2

MR SEJAL MANDEVIA for Respondents No.1 & 3

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 09/05/96

ORAL JUDGMENT

The petitioners, the employees of the Nagar Panchayat, Manavadar, District Junagadh, filed this Special Civil Application before this Court for

directions to the respondents to give them benefits which are made available to the Government servants from the date of transfer of the petitioners' service to the Panchayat till their superannuation, and to pay them leave encashment, leave travel concession, pension and other benefits made available to the Government servants on that basis.

2. It is not in dispute that during the pendency of this Special Civil Application, all the petitioners have retired from the services of respondent No.2-Panchayat on reaching their age of superannuation. The petitioners were initially appointed in the service of Municipality, which has later been converted in Nagar Panchayat. The counsel for the petitioner contended that the period of service which has been rendered by the petitioners from the date of their appointment in the Municipality till they were taken over in Nagar Panchayat should be counted for all purposes, including pension, gratuity, and other retirementary benefits. The counsel for the respondents, on the other hand contended that the service of the petitioners for the aforesaid period cannot be counted for the pension and other retirementary benefits as the Government has not treated them Government servants for the said period.

3. The counsel for the petitioners made another grievance in this Special Civil Application during the course of arguments, though no such grievance has been made in the Special Civil Application. She has contended that the Government has introduced a scheme of giving of benefits of the pay-scale of the higher post in the regular channel of promotion to its employees on completion of 9 years, 18 years, and 27 years of service respectively. The respondents consider the petitioners to be the Government servants and as such the petitioners are entitled for the benefits of the aforesaid scheme. These benefits have not been given. It has further been contended that in view of the fact that the petitioners have been considered to be the Government servant, there is no justification not to treat their services which they have rendered with the Municipality for all the purposes including gratuity, and other retirementary benefits. Looking to the fact that the petitioners have retired and they have been given pension also, the dispute remains only for counting of their service for all other benefits from the date of their appointment and the petitioners claim the benefit of the scheme of giving of pay-scale of the higher post in regular channel of promotion on completion of 9 years, 18 years and 27 years of service, I am of the opinion that interest of justice

will be met in case this Special Civil Application is disposed with the directions to the respondents that the petitioners may make a representation for their claim for which they consider themselves entitled, to the respondent No.1 and in case such a representation is made, then the respondent No.1 shall decide the same within a period of three months from the date of receipt thereof. In case the respondent No.1 considers that the claim made by the petitioners in their representation is not acceptable, a reasoned order has to be made and a copy of the same may be sent to each petitioner where they have filed a joint representation, by registered post. It shall be open to the petitioners either to make a joint representation or an individual representation. It shall be open to the petitioners to approach this Court again in case necessity arises. Rule made absolute in aforesaid terms.

(S.K.KESHOTE,J)

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(sunil)